

the issuance of corporate bonds or their reorganization. The subject is not approached from the viewpoint of the draftsman who is concerned that all necessary and appropriate clauses are inserted and that all applicable laws are complied with and none violated.

Four chapters by contributing authors deal with: Refunding and Collecting Municipal Bonds; Surcharging a Trustee, which deals not with the responsibilities of a corporate trustee but with the duties and liabilities of trustees under personal testamentary and living trusts as to investment in corporate securities; Reclamation Proceedings in Bankruptcy; and Rights and Remedies of Holders of Foreign Bonds. These chapters are not closely enough related to the main subject to justify their inclusion and might better have been contributed as leading articles to Law Reviews.

In Volume Two are found ten forms which occupy 383 pages. It is not apparent why they were included. While the instruments of corporate finance are similar in outline there are no accepted standard forms; they vary greatly in detail and from one jurisdiction to another, and are constantly developing with changes in practice and new legislation. For example, we note the following clauses in the published forms: the gold clause is obsolete; the 2% federal tax clause was eliminated by the Revenue Act of 1934; a provision in a bond for interest on past due interest violates usury laws in some states; and a judgment clause in a bond is not effective in some states. Illustrative forms are always available and each attorney specializing in the subject must build up his own set of forms.

This reviewer deplors the tendency to expand one volume books into two volumes. Certainly an author prefers credit for publishing a useful one volume introductory text book rather than for publishing a two volume work which does not meet acceptance as an authoritative treatise. Mr. Quindry would readily agree that the time has not yet arrived when the latter can be done with the subject treated in his book. Specialists in the subject can scarcely keep up with changes in practice, new legislation and current administrative rulings which may or may not be in accord with what has been considered the law. This book should therefore be regarded as a useful comprehensive but introductory treatment of a complex and rapidly developing subject.

PAUL CHRISTOPHERSON*

Publications of the Colonial Society of Massachusetts, Volumes XXIX, XXX, Collections, Records of the Suffolk County Court, 1671-1680. Boston: Published by the Society. 1933. Part I, pp. xciv+562; Part II, pp. viii+563-1233.

The Court records of any period contain a great deal of incidental information on economic and social aspects of life. They are particularly welcome to the historian when other documentary evidence is none too plentiful. The Massachusetts Bay records of the County Court of Suffolk include also a selection from the large mass of papers still preserved in the Court files, particularly depositions, inventories and reasons of appeal. Many of these are documents of great human interest, furnishing an excellent corrective to any notion that seventeenth century Puritans spent virtually all of their time in ascetic preparations for heaven.

For one interested in the history of the law in America such publications are of real

* Member of the Minneapolis Bar.

value, revealing as they do how what was supposed to be the law actually worked out in everyday affairs.

The Massachusetts Bay Company under its first royal charter presented the interesting spectacle of a corporation which had quietly turned into a commonwealth. By refusing to allow appeals to the English Courts the charter provision that local legislation must not be "repugnant" to that of England was practically nullified. By refusing to admit that Parliament might bind them by legislation, the leaders jealously guarded their right to virtually complete local self-determination.

For some years no attempt was made to pass a complete civil and criminal code, and yet the records of the Court of Assistants show that hundreds of cases were heard and determined by the magistrates. Only in a very general fashion was the law of England followed. In over four-fifths of the criminal cases that came before the Court of Assistants from 1630 to 1643 penalties were inflicted at variance with those provided at home. Popular distrust of such great discretionary powers, even if exercised in accordance with the Scriptures, led to the drawing up of the celebrated Body of Liberties, which began by stating that no man should be ". . . indammaged under colour of law or Countenance of Authoritie, unless it be by vertue or equitie of some express law of the Country . . . established by a general Court . . . or in case of the defect of a law in any particuler case by the word of god."

By 1671, when this volume of Suffolk records begins, the General Court had passed a fairly complete code of laws, and no cases appear in these records which were decided solely on the basis of the Bible. Biblical references and principles are, however, referred to in some twenty cases.

In an extended and careful introduction to these records, Zechariah Chaffee calls attention to a number of points illustrated by the Suffolk cases. He inclines to the view that "the English common law had a decisive influence upon the language and form of the colonial statutes." The present reviewer would agree that English influence was at least a decided one. It is important to recall, however, that English law was not binding *as such*. An unfriendly observer from England reported in 1676, "They swear their Jurors to determine causes Civill and Criminall according to the Lawe of that Country, without respect to the Laws of England which are neither in the whole or in any part of them valid or pleadable in their Courts till . . . received and voted such by a General Assembly."¹

No English statutes or precedents are cited in the Suffolk cases. The records on the other hand seem to show prosecutions for miscellaneous minor offenses, and instances of torts for which damages were given, none of which was expressly provided for by Massachusetts statutes or for that matter by the word of God. (Introduction xxx).

In civil litigation the action on the case is used in more than three quarters of the cases. This is a far greater proportion than in contemporary England, but the designation in many instances does not correspond with English usage. Actions of debt were common. Trespass and replevin appear, sometimes loosely used. The technicalities growing out of the variety of English writs of summons were largely avoided by having one statutory form of summons. (Introduction xl).

Pleadings were largely oral. Jury trials were a matter of course. Rules of evidence, as in contemporary England, were elementary and apparently not clearly formulated.

¹ Randolph Papers, II, 294.

The testimony of witnesses was submitted in the form of depositions. There is no evidence that witnesses were cross-examined. In appealing one case, a litigant complains that one "evidence" is "only a Hearsay" (p. 653).

There were no separate Courts of Equity, but an early statute gave "the Bench" power to determine any equity cases, and the Suffolk records show that this power was frequently exercised. Chaffee concludes that "the Massachusetts Courts felt the necessity of doing more to compel specific performance and restitution than an English law Court would do, even though the colonial Courts did not give precisely the same relief as the English Chancery or impose so much pressure to bring about obedience to orders." (Introduction lv).

ARTHUR P. SCOTT*

A Collection of the Diplomatic and Consular Laws and Regulations of Various Countries. By A. H. Feller and Manley O. Hudson. Washington, D.C.: Carnegie Endowment for International Peace. 1933. 2 vol. Pp. 1505.

A "Research in International Law" conducted under the auspices of the Harvard Law School has, as its Director, Professor Manley O. Hudson, Professor of International Law in that school, and a widely recognized authority in that field. With his colleague, Professor Feller, he has written this work, just published by the Carnegie Endowment for International Peace. It is intended as an up-to-date collection of the various laws and regulations concerning diplomatic privileges and immunities and the legal status and functions of consuls, etc., which might help toward a codification of the law in these regards. It is also intended to be of assistance in the current activities of diplomats and consuls, and in connection with the work of jurists and publicists. Assuredly the task could have been undertaken by none more competent. A more painstaking and successful work it would be hard to find. All available sources seem to have been drawn upon and the work gives us in English a full and accurate account of the laws and regulations on the subject of all civilized countries from Albania to Yugoslavia. There are added a list of treaties concerning consuls and a most satisfactory index. *Oh, si sic omnes!*

The information is almost wholly from official publications and is, consequently, perfectly reliable.

What are for us the most interesting portions are those dealing with the English-speaking nations, the United States and the British Commonwealth of Nations. It is to be noticed that the authors, differing in that respect from most writers, recognize the essential change of status in the British Dominions. With most, Canadians are still subjects of England and the Governor-General actually takes part in the governing. Concerning the United States, the story begins with the Articles of Confederation and Perpetual Union of July 9, 1779 and is continued to the present—a full recapitulation of the provisions of statutes, regulations etc., is given in a practical order. In England, in the British Commonwealth of Nations, the United Kingdom of Great Britain and Northern Ireland is first dealt with. It is pointed out that the beginnings of English diplomatic intercourse are to be found in the 14th century. In 1327, the Bishop of Norwich was sent to France to negotiate a treaty; a Venetian Ambassador was sent to England in 1320; but the first permanent diplomatic representative sent

*Associate Professor of History, the University of Chicago.